REMARKS

The Office Action mailed December 22, 2005 has been carefully considered and it is respectfully requested that the application be reconsidered in view of the amendments made to the claims and for the remarks herein.

Claims 1 and 8-11 are pending and stand rejected.

Claims 1 and 11 have been amended.

Claims 1, 7 and 9-11 stand rejected under 35 USC 103(a) as being unpatentable over Maddux (USPPA 2002/0124245) in view of Curtis (USP no. 6,347,397).

Applicant respectfully disagrees with the reason for rejecting the claims. However, in the interest of advancing the prosecution of this matter, the claims have been amended to more clearly state the invention. More specifically, independent claim 1 has been amended to recite "means for determining the operating system on which the packaging applications will operate." No new matter has been added. Support for the amendment may be found on at least page 15 paragraph [0037], which state, in part, "Turning to Fig. 2 ... At step 32, the process identifies the server's operating system."

Maddux discloses a method and apparatus for advance software deployment. The method allows for the deployment of complex applications using native deployment routines. (See Abstract). The Office Action states that Maddux discloses a system for packaging applications but does not disclose that the at least one parameter identifies the parameters specified in the claim 1, for example.

Curtis discloses an install system for installing a given program that utilizes a containment structure having a fileset object for the program or several fileset objects for various parts of a program. Each fileset object contains install objects. An install object may be a file object, registry object, shortcut object, directory object, permissions object. Each fileset and install object contains the means for installing itself, uninstalling itself, logging itself to a file and recreating itself from a log file. Curtis further discloses that for each operating system the fileset includes a file for identifying the associated operating system. (see col. 9, lines 5-10, which state, "[t]herefore, there is a platform specific module/interface. It is referred to herein as CPP201. It

defines a set of methods that are representative of different operating systems for functions that need to take place for an install. There are several different CPP's ... one for each operating system." Hence, Curtis teaches a set of files that are associated with each operating system.

A claimed invention is prima facie obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

In this case, combination of Maddux and Curtis is deficient in reciting a material element of the invention recited in claim 1, for example, and, contrary to the statements made in the Office Action, there is no teaching or suggestion in either reference to motivate one skilled in the art to provide a means for identifying the operating system as is recited in the claims. Hence, even if there were some motivation to combine the teachings of the cited reference, which applicant believes does not exist and need not discuss herein, the combined device of Maddux and Curtis to teach all the features recited in independent claim 1.

Accordingly, the invention recited in claim 1 is not rendered obvious by the teachings of the cited reference, as the combined device fails to recite all the elements claimed in independent claim 1.

With regard to the remaining independent claims, these claims recite subject matter similar to that recited in claim 1 and have been rejected citing the same references used in rejecting claim 1. Accordingly, applicant's remarks made in response to the rejection of claim 1 are also applicable in response to the rejection of these claims. Thus, in view of the remarks made with regard to the rejection of claim 1, which are reasserted, as if in full, in response to the rejection of the remaining independent claims, applicant submits that the reason for the rejection of these claims has been overcome and can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claims.

With regard to the remaining dependent claims, these claims ultimately depend from the independent claims, which have been shown to be allowable over the cited references.

Accordingly, the remaining claims are also allowable by virtue of their dependence from an allowable base claim.

Claim 8 stands rejected under 35 USC 103(a) as being unpatentable over Maddux in view of Fisher (USP no. 6,038,399) and further in view of Curtis.

Claim 8 depends from independent claim 1, which has been shown to include subject matter not disclosed by Maddux and Curtis, and Fisher provides no teaching to correct the deficiencies noted in the combination of Maddux and Curtis. Accordingly, claim 8 is not rendered obvious by the references cited as the combination of the references fails to disclose all of the elements claimed.

For at least this reason, applicant submits that the reason for the rejection has been overcome. Applicant respectfully requests that the rejection be withdrawn and the claim allowed.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney at (914) 798 8505.

Please charge all fees occasioned by this submission to Deposit Account No. 05-0889.

Respectfully submitted,

Dated: 3/3/06

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